

RECORD OF THE SENATE

THURSDAY, NOVEMBER 19, 1998

RESUMPTION OF THE SESSION

At 10:20 a.m., the session was resumed with the President Pro Tempore, Hon. Blas F. Ople, presiding.

The President Pro Tempore. The session is resumed.

ACKNOWLEDGMENT OF LOCAL GUESTS (Bongabon, Nueva Ecija Delegation)

Senator Drilon. Mr. President, before we go to our Reference of Business, may I take this opportunity to make of record the presence of the members of the *Sangguniang Bayan* officials, Samahan ng Liga ng mga Barangay, NGO Senior Citizens and Concerned Citizens of Bongabon, Nueva Ecija, with acting Mayor Francisco Guerrero, present here in the hall today. They are on a study hour.

We also have the other barangay officials of Bongabon, Nueva Ecija, present in our hall this morning.

The President Pro Tempore. May I ask the Bongabon, Nueva Ecija delegation to please rise to be acknowledged.

The members of the delegation from Bongabon, Nueva Ecija rose for recognition.

The President Pro Tempore. Thank you.

The Secretary will now read the Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

The Acting Secretary [Mr. Pineda]. Senate Bill No. 1344, entitled

AN ACT ADDING ONE MORE RAY IN THE SUN OF THE PHILIPPINE FLAG TO REPRESENT THE MUSLIM MINDANAO

Introduced by Senator Barbers

The President Pro Tempore. Referred to the Committee on Constitutional Amendments, Revision of Codes and Laws

Senator Barbers. Mr. President.

The President Pro Tempore. Senator Barbers is recognized.

MANIFESTATION OF SENATOR BARBERS
(Senators Flavier and Cayetano as Coauthors of
S. No. 1344)

Senator Barbers. Mr. President, may I manifest the inclusion

of Senator Flavier and Senator Cayetano as cosponsors of this bill.

The President Pro Tempore. The two gentlemen named by Senator Barbers are therefore deemed coauthors of Senate Bill No. 1344.

Please proceed.

The Acting Secretary [Mr. Pineda]. Senate Bill No. 1345, entitled

AN ACT GRANTING ADDITIONAL BENEFITS AND INCENTIVES TO PUBLIC SCHOOL TEACHERS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Barbers

The President Pro Tempore. Referred to the Committees on Education, Arts and Culture; Civil Service and Government Reorganization; and Finance

RESOLUTIONS

The Acting Secretary [Mr. Pineda]. Proposed Senate Resolution No. 296, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO INVESTIGATE, IN AID OF LEGISLATION, THE REPORTED USE OF IMPORTED CARABEEF IN MEAT PRODUCTS

Introduced by Senator Santiago

The President Pro Tempore. Referred to the Committees on Trade and Commerce; and Agriculture and Food

The Acting Secretary [Mr. Pineda]. Proposed Senate Resolution No. 297, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED ENTRY AND REPORTED FIELD TESTING OF GENETICALLY-MODIFIED ORGANISMS, TO DETERMINE THE ADEQUACY OF SAFETY MEASURES THAT HAVE BEEN ADOPTED TO PREVENT UNNECESSARY ACCIDENTS, MISHAPS AND HEALTH IMPACTS TO THE CONSUMING

RESUMPTION OF SESSION

At 10:58 a.m., the session was resumed.

The President Pro Tempore. The session is resumed. The Majority Leader is recognized.

BILL ON SECOND READING
S. No. 1255 — Clean Air Act
(Continuation)

Senator Drilon. Mr. President, I move that we resume consideration of Senate Bill No. 1255, as reported out under Committee Report No. 8.

The President Pro Tempore. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1255 is now in order.

Who is the sponsor?

Senator Drilon. Sen. Gregorio B. Honasan is the principal sponsor.

May we ask the Chair to recognize Senator Honasan.

The President Pro Tempore. Senator Honasan is recognized.

SUSPENSION OF SESSION

Senator Drilon. May I ask for another one-minute suspension of the session.

The President Pro Tempore. The session is suspended for one minute, if there is no objection. *[There was none.]*

It was 10:59 a.m.

RESUMPTION OF SESSION

At 11:04 a.m., the session was resumed with the Hon. Ramon Magsaysay Jr. presiding.

The Presiding Officer [Sen. Magsaysay]. The session is resumed. The Majority Leader is recognized.

Senator Drilon. We are now in the period of interpellations. May I ask the Chair to recognize Senator Roco.

The Presiding Officer [Sen. Magsaysay]. Senator Roco is recognized.

Senator Roco. Mr. President, I am just doing a patriotic duty. I have three small questions if the distinguished sponsor would yield.

Senator Honasan. With pleasure, Mr. President, from the gentleman from Bicol.

Senator Roco. Thank you, Mr. President.

Somewhere in the bill, there is reference to the "aromatics content" in gasoline that is used by cars. First, may we ask our distinguished friend what that means?

Senator Honasan. Thank you, Mr. President. These are components incorporated into gasoline and other fuel specifications. The percentage composition is determined not only by the refining companies themselves, but in a regulatory sense, by the Department of Energy.

Senator Roco. And at present, the aromatics content of what we use in gasoline is what percent?

SUSPENSION OF SESSION

Senator Honasan. May I request for a one-minute suspension of the session?

The Presiding Officer [Sen. Magsaysay]. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It as 11:06 a.m.

RESUMPTION OF SESSION

At 11:07 a.m., the session was resumed.

The Presiding Officer [Sen. Magsaysay]. The session is resumed. Senator Honasan is recognized.

Senator Honasan. Mr. President, for aromatics, it is 85 percent and for benzene, it is 5 percent.

Senator Roco. Yes. And under the bill, it will go down to what figure?

Senator Honasan. For aromatics, we are proposing that it go down to less than 25 percent, and for the benzene less than 1 percent effective 18 months after.

Senator Roco. Yes, which conforms, I understand, to the standards in California. Would this be correct?

Senator Honasan. That is correct, Mr. President.

Senator Roco. But it is only California in the whole United States that has, in fact, adopted that standard as of right now. Is this also correct?

Senator Honasan. That is correct, Mr. President.

Senator Roco. I have no problems, Mr. President, with more stringent conditions for cleanliness on the part of gasoline. My slight problem is the timing. From the IPU, even from the nonaligned movement, when our distinguished President Pro Tempore went there, and in the Asean ministerial meeting here when the President spoke, they were both pushing for review of the so-called globalization directions and policies. We picked it up in the Inter-Parliamentary Union and the Asean supported that he will even push for this review at the next meeting. We will fight anyway that it be put in the agenda.

Right now, from what we hear in the APEC, although there were dissonant voices, there seems to be enough among even APEC members. I think even Canada is having problems with the timing and conformity of the World Trade Organization, and we have seen this raised also by the Senator from Cebu when we were discussing the ratification of one of the treaties.

As proposed in the bill, Mr. President, we will be ahead of all the countries, except for California as a State. So I was wondering, if the Committee is open to looking at another schedule just so we are not ahead. We should not be ahead of Europe in this one, maybe *kasabay*, because it may have a disadvantage.

I am not totally familiar with this. I only notice that we are pushing ahead of Europe and ahead even of the United States in such a technical matter. I am only asking if California is open to study a change in the timing.

Senator Honasan. Thank you, Mr. President. The Committee will be very open.

Senator Roco. In which case, Mr. President, that was my only concern. I have always supported the Clean Air Act and I hope it gets done as soon as possible.

Thank you, Mr. President.

The Presiding Officer [Sen. Magsaysay]. The Majority Leader is recognized.

Senator Drilon. Mr. President, will the gentleman yield for a few clarificatory questions?

Senator Honasan. With pleasure, Mr. President.

Senator Drilon. On page 1, Section 2 of the proposed law, there is an enumeration of the rights of the citizens. My query, Mr. President, is: How do we intend to enforce the rights enumerated here?

For example, it is embodied in this section that it is the right of all citizens to participate in environmental policy formulation,

planning, management, monitoring, enforcement activities of the State. May we know exactly what the sponsor has in mind when he included the right of citizens to plan, manage, monitor, and enforce environment policy under this proposed bill?

Senator Honasan. Mr. President, actually the mechanism for this revolves around what we call the air quality control zones. Under the supervision of the Presidential Air Quality Commission, there will be devolved functions that will allow this very same mechanism to get inputs through meaningful consultations from the affected citizens of these air quality control zones. This would be the vehicle by which the participation in decision-making will be consolidated and will be inputted subsequently into policies governing the air quality control zone.

Senator Drilon. I have no problem about participation in formulation of policies by citizens. But I wish to be clarified as to whether ordinary citizens can also participate in the management and enforcement powers of the government. Is it the contemplation of the sponsor that such right be granted to ordinary citizens, non-public officers? Or is it the intention to limit the right only to participate in policy formulation?

Senator Honasan. Mr. President, although one aspect of this is the provision for citizen suits, what is more important to actualize this right is the information governing the quality of air that people breathe in each locality that will be given to the agencies under the Presidential Air Quality Commission at local government level.

Senator Drilon. All right. Let us go to a specific example. Suppose a group of citizens finds that a certain factory is polluting a riverbed. Under Section 2, paragraph C, it states that "the citizen has the right to participate in the management and enforcement activities of the State."

Is it the intention of this proposed bill to grant the citizen the right to close a factory because he considers it as part of the enforcement activities of the State to enforce the Clean Air Act, Mr. President?

Senator Honasan. In this case, Mr. President, I would go to the situations under which citizens suits may be brought, and these are: when a person violates or fails to comply with the provisions of this Act or its implementing rules and regulations; when the DENR or other implementing agencies issue orders, rules and regulations inconsistent with the provisions of the Clean Air Act; when a public officer willfully or grossly neglects the performance of an act enjoined as a duty by the law and its implementing rules and regulations. On this last category, we also add a proviso which requires 90-day notice to the public officer and violate our concern before a case can be filed.

What I am trying to say as envisioned in the law, Mr. President, is that we are trying to elicit through this mechanism maximum citizens participation. So the rights will go hand in hand with this mechanism for citizens suits. We are hoping, although we take a risk that this will not take on the form of obstructionist measures or actions.

Senator Drilon. We have no problem with maximizing citizens participation. That is embodied in our Constitution. I have no problem about allowing citizens suit. That is something that is being done in other jurisdictions with sophistication and effectiveness.

My problem, however, is that a reading of Section 2, subparagraph (c) may grant the citizen the right just to enforce this law on his own, because he has been given the right to enforce the law.

Bringing a civil suit is certainly covered under paragraph (g) of Section 2, found on page 2, lines 10 to 15. But it would appear to me, unless I am reading it erroneously, that a citizen is granted the right to manage and enforce this law. In which case, we may have some problems.

That is why I am raising the issue as to what the intention of the good sponsor is, whether just to limit in paragraph (c) the right to participate in policy formulation and planning, or is it also including management and enforcement?

Senator Honasan. Thank you, Mr. President. In Section 2, paragraph (c), if the right to participate in environmental policy formulation, planning, management, monitoring and enforcement activities of the state will generate a divergent interpretation from the spirit of the proposal, then we will defer to the opinion of the distinguished Majority Leader. In fact, I would like to state for the record that this issue was also brought up in a previous interpellation by the gentleman from Cagayan. And we would welcome any modifications during the period of amendments.

Senator Drilon. Thank you, Mr. President. On page 2, line 7, the public is also given the right of access to public or private records necessary for the complete assessment of environmental risk. First, are there limitations that we intend to impose on the access to public records? Or is this an untrammelled right just to inquire into any public record?

Senator Honasan. Mr. President, I guess, this is again another paragraph that may be subject to misinterpretation. But direct information derived through the existing mechanisms would be the intent of this paragraph as it applies to improving the air quality standards. That would be the spirit by which this paragraph is included.

Senator Drilon. How about private records, Mr. President? Can this law now be used to allow any private citizen to have access to private records of companies?

Senator Honasan. From my understanding, Mr. President, I guess this has to be backed up by a court order.

Senator Drilon. I am sorry, may I have it again?

Senator Honasan. I guess this will have to be backed up using mechanisms that allow us to develop access to private records through a court order.

Senator Drilon. So, would the citizen have to go to court to have access to these records?

Senator Honasan. Yes, Mr. President.

Senator Drilon. Now, the only limitation here is that these are records necessary for the complete assessment of environmental risks.

Senator Honasan. That is correct, Mr. President.

Senator Drilon. Can this include the costs of production?

Senator Honasan. Yes, Mr. President.

Senator Drilon. Is there no danger that this may be used by rival companies or competitors trying to have access to his competitor's records, to ask a citizen to go to court to ask for the privilege to inquire into the cost of production of a company under the guise of checking compliance with the Clean Air Act?

In other words, Mr. President, does the sponsor not agree with me that there is a need to be very restrictive as far as this otherwise full untrammelled access to public or private records are concerned?

Senator Honasan. Mr. President, the sponsor agrees that this has to be qualified and may be detailed so that this will not be subject to other interpretations.

Senator Drilon. On paragraph (g), Mr. President, that is in lines 10 to 15, in line 13 the citizen is given the right to seek the imposition of penal sanctions against violators of environmental laws.

Just for purposes of record, does this not mean an amendment of the existing laws which would authorize only the prosecutors of the Department of Justice in filing criminal cases before our courts of law?

Senator Honasan. No, that is not the intent, Mr. President. It is not intended to amend this specific provision.

Senator Drilon. So that this would only refer to cases that may be brought by ordinary citizens before the prosecutor's office and not before the courts?

Senator Honasan. That is correct, Mr. President, with the additional mechanism that is provided by the quasi-judicial bodies that may implement a review, a preliminary assessment of the merits of these complaints.

Senator Drilon. May we have a little more explanation on that point, Mr. President.

Senator Honasan. Mr. President, there are also quasi-judicial bodies like the Pollution Adjudication Board, that may provide a preliminary mechanism for citizens to seek sanctions against violators of this environmental laws without prejudice to the regular courts.

Senator Drilon. Would the sanctions on those particular cases be penal or administrative, Mr. President.

Senator Honasan. That would be dependent, Mr. President, on the existing laws governing the actual application of the judicial system in the regular courts.

Senator Drilon. I respectfully submit, Mr. President, that criminal statutes can only be enforced by courts of law and not by administrative agencies.

I just wanted to put that on record and clarify that it is not the intention to vest in these administrative agencies the authority to impose penal sanctions under the act. That is why we thought that the more appropriate thing to do is to make clear that the citizens or the administrative bodies should go through the National Prosecution Service if there is need to enforce the penal sanctions of the Clean Air Act.

Senator Honasan. We agree, Mr. President.

Senator Drilon. Those are just the points that I wish to be clarified. Thank you.

SUSPENSION OF SESSION

At this point, Mr. President, may I ask for a one-minute suspension of the session.

The Presiding Officer [Sen. Magsaysay]. The Chair declares a one-minute suspension of the session, if there is no objection. *[There was none.]*

It was 11:25 a.m.

RESUMPTION OF SESSION

The Presiding Officer [Sen. Magsaysay]. The session is resumed. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1255

Senator Drilon. Mr. President, I move that we suspend consideration of Senate Bill No. 1255 under Committee Report No. 8.

The Presiding Officer [Sen. Magsaysay]. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Honasan. Thank you, Mr. President.

BILL ON SECOND READING

S. No. 1261 — PNP Modernization *(Continuation)*

Senator Drilon. Mr. President, I move that we resume consideration of Senate Bill No. 1261, as reported out under Committee Report No. 9. This is an Act Amending Republic Act No. 6975, Restructuring the Philippine National Police and Empowering Local Government Units for Maintenance of Peace and Order.

The Presiding Officer [Sen. Magsaysay]. Is there any objection? *[Silence]* Resumption of the consideration of Senate Bill No. 1261 is now in order.

Senator Drilon. For that purpose, may we ask the Chair to recognize Senator Pimentel, the principal sponsor and the Minority Leader, as affirmed and confirmed by the Supreme Court, to interpellate.

The Presiding Officer [Sen. Magsaysay]. Senator Pimentel is recognized as sponsor of the bill.

Senator Pimentel. Thank you, Mr. President. And to soften up the Minority Leader, may I congratulate him for his victory in the Supreme Court.

The Presiding Officer [Sen. Magsaysay]. That is a welcome statement from the sponsor. Senator Guingona may continue.

Senator Guingona. Thank you, Mr. President.

Will the distinguished sponsor yield for some questions?

Senator Pimentel. With pleasure, Mr. President.